

### **REMARKS**

In the Office Action<sup>1</sup>, the Examiner took the following actions:

- (1) rejected claims 1-16 under 35 U.S.C. § 101;
- (2) rejected claim 3 and 11 under 35 U.S.C. § 112, first paragraph;
- (3) rejected claims 1-8 under 35 U.S.C. § 112, second paragraph;
- (4) rejected claims 1-6 and 9-14 under 35 U.S.C. § 102(b), as being allegedly anticipated by U.S. Patent No. 5,692,125 to Schloss et al. ("*Schloss*"); and
- (5) rejected claims 7, 8, 15, and 16 under 35 U.S.C. § 103(a), as being allegedly unpatentable over *Schloss* in view of "The Columbia Institute e-Campus School Policy Manual, November 2002" ("*Columbia*").

By this Amendment, Applicant has amended claims 1-16. No claims are added or cancelled. Accordingly, claims 1-16 are under examination.

#### **I. Rejection of Claims 1-16 under 35 U.S.C. § 101**

##### **Claims 1-8**

The Office Action rejected claims 1-8 under 35 U.S.C. § 101, as being directed to non-statutory subject matter. Office Action at 2. In particular, the Office Action alleges that claim 1 is rejected "because [it is] considered to be drawn merely to the production and/or manipulation of non-functional descriptive material." *Id.*

Without acquiescing to the propriety of this characterization, Applicant has amended independent claim 1 to recite "[a] computer program product comprising a memory device storing instructions," to further establish the statutory nature of the

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<sup>1</sup> The Office Action contains a number of statements reflecting characterizations of the related art and the claims. Regardless of whether any such statement is identified herein, Applicant declines to automatically subscribe to any statement or characterization in the Office Action.

claim. As such, Applicant respectfully submits that claim 1, as amended, is directed to statutory subject matter, and requests the reconsideration and withdrawal of the rejection under 35 U.S.C. § 101.

Claims 2-8 depend from independent claim 1. As such, these dependent claims are directed to statutory subject matter for at least those reasons set forth above for independent claim 1. Accordingly, Applicant respectfully requests reconsideration and withdrawal of the rejection of these dependent claims under 35 U.S.C. § 101.

*Claims 9-16*

The Office Action rejected claims 9-16 under 35 U.S.C. § 101, as being directed to non-statutory subject matter. Office Action at 2. In particular, the Office Action alleges that while claim 9 "contains physical steps (scheduling, receiving, determining, and processing), it does not involve transforming an article into a different state or thing." Office Action at 3. Further, the Office Action also alleges that claim 9 performs "insignificant extra-solution activity . . . without performing any processing activities." *Id.*

Without acquiescing to the propriety of this characterization, Applicant has amended independent claim 9 to recite, for example" "scheduling, using a processor," "receiving, using the processor," "determining, using the processor," and "processing, using the processor," to further establish the statutory nature of the claim. As such, Applicant respectfully submits that claim 9, as amended, is directed to statutory subject matter, and requests the reconsideration and withdrawal of the rejection under 35 U.S.C. § 101.

Claims 10-16 depend from independent claim 9. As such, these dependent claims are directed to statutory subject matter for at least those reasons set forth above

for independent claim 9. Accordingly, Applicant respectfully requests reconsideration and withdrawal of the rejection of these dependent claims under 35 U.S.C. § 101.

**II. Rejection of Claims 3 and 11 under 35 U.S.C. § 112, first paragraph**

The Office Action has rejected claims 3 and 11 under 35 U.S.C. § 112, first paragraph, as allegedly failing to comply with the enablement requirement because “the specification fails to describe how a ‘successful’ consistency check is determined.”

Office Action at 3. Without acquiescing to the propriety of this characterization, Applicant has amended claims 3 and 11 to overcome the rejection. Accordingly, Applicant respectfully requests the reconsideration and withdrawal of the rejection of claims 3 and 11 under 35 U.S.C. § 112, first paragraph.

**III. Rejection of Claims 1-8 under 35 U.S.C. § 112, second paragraph**

The Office Action has rejected claims 1-8 under 35 U.S.C. § 112, second paragraph, as being allegedly indefinite because “the [claimed] computer program is not executed.” Office Action at 4. Without acquiescing to the propriety of this characterization, Applicant has amended claim 1 to overcome the rejection. Accordingly, Applicant respectfully requests the reconsideration and withdrawal of the rejection of claim 1 under 35 U.S.C. § 112, second paragraph.

Claims 2-8 depend from independent claim 1. As Applicant has traversed the rejection of the independent base claim from which claims 2-8 depend, Applicant respectfully requests that the reconsideration and withdrawal of the rejection of these dependent claims under 35 U.S.C. § 112, second paragraph.

**IV. Rejection of Claims 1-6 and 9-14 under 35 U.S.C. § 102(b)**

Applicant respectfully traverses the rejection of claims 1-6 and 9-14 under 35 U.S.C. § 102(b), as being allegedly anticipated by *Schloss*.

In order for *Schloss* to anticipate Applicant's claims, each and every element as set forth in the claims must be found, either expressly or inherently, in *Schloss*. See M.P.E.P. §2131. Further, "[t]he identical invention must be shown in as complete detail as is contained in the . . . claim." M.P.E.P. §2131, quoting *Richardson v. Suzuki Motor Co.*, 868 F.2d 1126, 1236 (Fed. Cir. 1989). In this case, *Schloss* fails to disclose, either expressly or inherently, each and every element recited in the claims.

For example, independent claim 9, as amended, recites a method for managing a curriculum that includes "scheduling . . . a booking of a course to be taken by a learner, wherein the scheduling comprising generating an attendance link that associates the learner with the course, the attendance link identifying whether the course is associated with a corresponding curriculum." Further, for example, claim 9 also recites "receiving . . . input from the learner requesting a modification to the booking" and "determining . . . whether the booking represents an individual booking or a curriculum booking based on at least the generated attendance link." *Schloss* fails to disclose or even suggest any of these elements of claim 9.

*Schloss* relates to processes that schedule one or more events (e.g., event 210) within a group of linked events (e.g., event group 260). See *Schloss*, column 8, lines 63-67, and FIG. 9. According to *Schloss*, the linking of events within event group 260 "would occur based on user input; it is not automatic." See *Schloss*, column 8, lines 61-62. Further, to schedule each linked event within event group 260, a first event 210 is

scheduled based on a user-supplied date 256, and each linked event is scheduled subsequent to first event 210 according to a specified wait interval (e.g., wait interval 235, 335). See *Schloss*, column 11, lines 9-31, and FIG. 10.

Thus, even assuming that the first event 210 represents “a course taken by a learner,” which it does not, *Schloss* at most discloses scheduling each of the linked courses based on user-supplied date 256 and the corresponding wait interval. *Schloss* neither discloses nor suggests any process that “[schedules] . . . a booking of a course to be taken by a learner, wherein the scheduling comprises generating an attendance link that associates the learner with the course, the attendance link identifying whether the course is associated with a corresponding curriculum,” as recited by claim 9 (emphasis added). Moreover, as *Schloss* fails to disclose or suggest “generating an attendance link,” *Schloss* also fails to disclose or suggest “determining . . . whether the booking represents an individual booking or a curriculum booking based on the generated attendance link,” as recited by claim 9 (emphasis added).

For at least the foregoing reasons, *Schloss* fails to disclose each and every element of independent claim 9 and, as such, *Schloss* cannot anticipate independent claim 9. Accordingly, Applicant respectfully requests that the reconsideration and withdrawal the rejection of claim 9 under 35 U.S.C. § 102(b).

Independent claim 1, although different in scope from independent claim 9, recites similar elements and is therefore not anticipated by *Schloss* for at least reasons similar to those set forth above for independent claim 9. Accordingly, Applicant respectfully requests the reconsideration and withdrawal of the rejection of independent claim 1 under 35 U.S.C. § 102(b).

Claims 2-6 and 10-14 depend from independent claims 1 and 9. As such, *Schloss* also fails to anticipate these claims in view of their dependency from an allowable base claim. Accordingly, Applicant respectfully requests the reconsideration and withdrawal of the rejection of these dependent claims under 35 U.S.C. § 102(b).

**V. Rejection of Claims 7, 8, 15, and 16 under 35 U.S.C. § 103(a)**

Applicant respectfully traverses the rejection of dependent claims 7, 8, 15, and 16 under 35 U.S.C. § 103(a), as being allegedly unpatentable over *Schloss* in view of *Columbia*. A *prima facie* case of obviousness has not been established with respect to dependent claims 7, 8, 15, and 16.

"The key to supporting any rejection under 35 U.S.C. § 103 is the clear articulation of the reason(s) why the claimed invention would have been obvious. . . . [R]ejections on obviousness cannot be sustained with mere conclusory statements." M.P.E.P. § 2142, 8th Ed., Rev. 7 (July 2008) (internal citation and inner quotation omitted). "[T]he framework for the objective analysis for determining obviousness under 35 U.S.C. 103 is stated in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966). . . . The factual inquiries . . . [include determining the scope and content of the prior art and] . . . [a]scertaining the differences between the claimed invention and the prior art." M.P.E.P. § 2141(II). "Office personnel must explain why the difference(s) between the prior art and the claimed invention would have been obvious to one of ordinary skill in the art." M.P.E.P. § 2141(III).

Claim 7, 8, 15, and 16 depend from independent claims 1 and 9, and as such, include all elements of their respective base claims. As discussed above, *Schloss* fails to disclose or suggest at least "scheduling . . . a booking of a course to be taken by a

learner, wherein the scheduling comprises generating an attendance link that associates the learner with the course, the attendance link identifying whether the course is associated with a corresponding curriculum" and "determining . . . whether the booking represents an individual booking or a curriculum booking based on the generated attendance link," as recited by independent claim 9, and as similarly recited by independent claim 1. Furthermore, *Columbia* fails to cure the above-noted deficiencies of *Schloss*.

The Office Action cites *Columbia* as disclosing "[that] the modification [to the scheduled booking] comprises a follow-up," "if the booking is a curriculum booking . . . not performing the follow-up until the entire curriculum is completed," and "if the booking is a curriculum booking . . . performing the follow-up even if the entire curriculum has not been completed." Office Action at 9-10. Even assuming the characterization of *Columbia* in the Office Action is correct, which Applicant does not concede, *Columbia* still fails to cure any of the above-noted deficiencies of *Schloss*. In particular, *Columbia* also fails to disclose or suggest "scheduling . . . a booking of a course to be taken by a learner, wherein the scheduling comprises generating an attendance link that associates the learner with the course, the attendance link identifying whether the course is associated with a corresponding curriculum" and "determining . . . whether the booking represents an individual booking or a curriculum booking based on the generated attendance link," as recited by independent claim 9, and as similarly recited by independent claim 1.

In view of the mischaracterization of the prior art set forth above, the Examiner has neither properly determined the scope and content of the prior art nor ascertained

the differences between the claimed invention and the prior art. Accordingly, no reason has been articulated as to why one of skill in the art would find the claimed combination obvious in view of the prior art. For at least this reason, no *prima facie* case of obviousness has been established. The rejection of dependent claim 7, 8, 15, and 16 under 35 U.S.C. § 103(a) as being obvious over *Schloss* in view of *Columbia* is thus improper and should be withdrawn.

### **CONCLUSION**

In view of the foregoing, Applicant submits that claims 1-16 are in condition for allowance. Applicant, therefore, requests the Examiner's reconsideration of this application and the timely allowance of the pending claims.

Please grant any extensions of time required to enter this paper and charge any additional required fees to Deposit Account 06-0916.

Respectfully submitted,

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